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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,030	07/18/2003	Kimberly D. Anderson	KCC 4985 (K-C 19691)	4469
321	7590	03/30/2007		
SENNIGER POWERS			EXAMINER	
ONE METROPOLITAN SQUARE			HILL, LAURA C	
16TH FLOOR				
ST LOUIS, MO 63102			ART UNIT	PAPER NUMBER
			3761	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE		DELIVERY MODE
3 MONTHS		03/30/2007		ELECTRONIC

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10-623-030

EXAMINER

ART UNIT      PAPER

20070322

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/623,030	ANDERSON ET AL.
Examiner	Art Unit	
Laura C. Hill	3761	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 January 2007.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-33 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-33 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 January 2007 has been entered.

### ***Response to Arguments***

2. Applicant's arguments, see pages 3-11, filed 15 January 2007, with respect to the rejection(s) of claim(s) 1-13, 15-18 and 20-23 under Yeo (US 5,503,076) in view of McFarland (US 6,096,412) and claim 14 over Yeo/McFarland/ Schleinz et al. (US 5,612,118) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yeo in view of Disposto (US 4,680,645), and Schleinz as discussed below.

### ***Affidavit***

The affidavit filed on 10 January 2007 under 37 CFR 1.131 is sufficient to overcome the McFarland et al. (US 6,096,412) reference.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-13, 15-18 and 20-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeo (US 5,503,076) in view of Dispoto et al. (US 4,680,645).

Regarding claims 1-3, 15, and 17-18 Yeo discloses a multi-color printed nonwoven web laminate 10 or any other type of substrate layer (column 4, lines 8-11, column 5, lines 29-34) for use in an outer cover of absorbent personal care products such as diapers and incontinence garments (column 1, lines 12-14 and column 7, lines 52-57) comprising a fibrous, absorbent facing layer/overlay 12 and substrate layer/additional other component 14, and an image including at least one ink having the color of red, blue, and green 16a, 16b, 16c and inherently black [Note that the primary colors red, blue, green when mixed form black] (column 4, lines 8-16 and figure 1), the image being printed in a non-contact manner via flexographic or ink-jet printing for good print pattern definition (column 8, lines 49-52), the laminate in one embodiment being printed at a line speed of approximately 100 feet per minute (column 10, lines 39-42). Yeo does not expressly disclose the colored inks coverage percentage area values. Coverage percentages are a well-known result effective variable since they are a result of the overall article size on which the color is printed. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yeo with the color coverage values for optimum image performance, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). Yeo further does not expressly disclose an image resolution of 100 dpi. Dispoto discloses images on paper made with a resolution of 100 dpi resulting in an excellent quality

image free of image artifacts (column 1, lines 6-10, column 2, lines 53-64). One would be motivated to modify the image of Yeo to have the resolution of Disposto for an excellent quality image since the references disclose printing images on substrates. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the article image, thus providing a resolution of 100 dpi.

Regarding claims 4-7 Yeo further discloses the facing layer/outer cover 12 comprises a white background (which inherently is formed via the loading of fibers with titanium dioxide which produces a white color) on which an image such as stars and hearts is printed (column 5, lines 12-16 and figures 1 and 3).

Regarding claims 8-9 Yeo further discloses the image includes a separable design element having a periphery and interior, the interior being free of black ink shading and the design element outlined in black ink (figure 3).

Regarding claim 10 Yeo further discloses the image being printed in a non-contact manner via flexographic or ink-jet printing for good print pattern definition as discussed above with respect to claim 1, the image inherently being printed with the highest threshold of blank ink in order to maximize the image quality.

Regarding claims 11-12 Yeo further discloses a focal element 16b for example (figure 1). Yeo/Dispoto does *not expressly disclose* the dimensions of the design elements. The design elements are result effective variables since they are a result of the number of designs placed on the substrate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yeo/Dispoto with design elements dimensions, since it has been held that discovering

an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 13 Yeo discloses water-based inks that may include wax additives (column 6, lines 53-60 and column 7, lines 39-44).

Regarding claim 16 Yeo/Dispoto do not expressly disclose a color difference value (DE\*). Color difference is a result effective variable since it is dependent on the change in lightness and change in chroma as disclosed by Applicant (page 21, paragraph 0049). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yeo/Dispoto with the color difference values for optimum image performance, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). Furthermore, when the reference discloses all the limitations of a claim except a property or function (i.e.: does not expressly disclose the color difference values), and the examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention but has basis for shifting the burden of proof to applicant as in *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP §§ 2112-2112.02.

Regarding claims 20-22 and 30 Yeo discloses the separable design element is outlined in black as discussed above with respect to claims 1 and 10-12.

Regarding claims 23-26 see the discussion above with respect to claims 1 and 4-

Regarding claims 27-29 see the discussion above with respect to claims 13-15.

Regarding claims 31-32 see the discussion above with respect to claims 17-18.

Regarding claim 33 see the discussion above with respect to claims 1 and 16.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yeo (US 5,503,076) in view of Dispoto et al. (US 4,680,645), and further in view of Schleinz et al. (US 5,612,118). Yeo/Dispoto *do not expressly disclose* the outer cover material that is the printing substrate is made of an extensible material. **Schleinz** discloses absorbent training pant 20 with absorbent at crotch section, liquid permeable liner and elastic outer cover 42 for improved elasticity throughout the pant body, the outer cover having an outer surface 44 with a plurality of printed graphics 46 thereon (column 3, lines 52-58, column 4, lines 21-23, figure 1). One would be motivated to modify the outer cover of Yeo/Dispoto with the extensible outer cover of Schleinz for improved elasticity throughout the pant body since both references disclose disposable absorbent articles having graphics printed on the outer cover. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the outer cover, thus providing an elastic and extensible outer cover.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chiang et al (US 5,024,989) discloses a contact thermal printing process with cyan density of 0.05-1.5, magenta density of 0.08-1.7, yellow density of 0.1-1.46 and a black color density of 1.75. Nissing et al. (US 6,477,948) discloses color density as a result effective variable and a halftone printing process for diapers that

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uses a print enhancing fluid that enhances color density of the image without the use of more concentrated ink.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (hours vary).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura C. Hill  
Examiner  
Art Unit 3761

LCH  
PLH

TATYANA ZALUKAEVA  
SUPERVISORY EXAMINER  
